

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**ESTATE OF MARY A. HERDA,
DECEASED, et al.,**

Defendants.

**CIVIL NO. 2:11CV00724
JUDGE MARBLEY
MAGISTRATE JUDGE KEMP**

**ORDER ESTABLISHING PRIORITY OF LIENS
IN REVERSE MORTGAGE FORECLOSURE ACTION**

This cause came on to be heard upon the Motion of plaintiff, United States of America for an order establishing the priority of liens of all the parties to this suit against the real property involved in this foreclosure action.

This is an action to foreclose on a Home Equity Conversion Mortgage (HECM), known in the general financial field as a reverse mortgage. The reverse mortgage program was established by Congress under 12 U.S.C. § 1715, et seq. and further regulated by 24 C.F.R. Part 206, et seq. Under the reverse mortgage program, the borrower does not have a payment plan. The amount owed on the mortgage becomes due when the borrower dies or has vacated the premises for a period of one year.

Plaintiff, United States of America, is the holder of two Adjustable Rate Notes (Home Equity Conversion) wherein Mary A. Herda, now deceased, is the borrower. Under the terms of Paragraph 7 of the Notes (Plaintiff's Complaint, Exhibits 1 and 3) and Paragraph 9 of the reverse

Mortgages (Plaintiff's Complaint Exhibits 2 and 4), payment in full was required on the date of death of Mary A. Herda.

The Court finds the motion of plaintiff to be well taken.

THEREFORE, IT IS ORDERED that the priority of liens to the real property described in plaintiff's complaint and more commonly known as 1150 Taylor Street, Zanesville, Ohio 43701 shall be as follows:

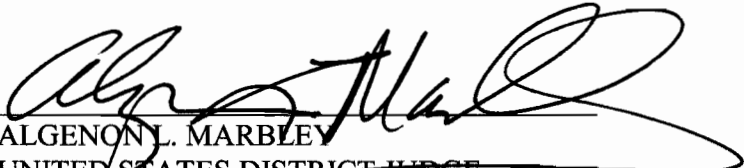
First: The lien of defendant, Treasurer of Muskingum County, Ohio for real estate taxes and assessments due and owing as to Parcel Numbers 17-74-04-08-000 and 17-75-04-09-000.

Second: The mortgage lien of plaintiff, United States of America, acting through the Secretary of Housing and Urban Development recorded on July 28, 2004 in Book 1883, Page 732, Mortgage Deed Records, Recorder's Office, Muskingum County, Ohio.

Third: The mortgage lien of plaintiff, United States of America, acting through the Secretary of Housing and Urban Development, recorded July 28, 2004 in Book 1883, Page 721, Recorder's Office, Muskingum County, Ohio. By virtue of a Subordination Agreement recorded on February 26, 2009 in Book 2204, Page 934 of the Muskingum County Recorder's Office, the Secretary of Housing and Urban Development subordinated the priority of the mortgage recorded in Book 1883, page 721 to the mortgage recorded in Book 1883, Page 732.

The Court further finds that a Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death on or after November 8, 1990, dated July 14, 2010, was filed on July 23, 2010 in the Probate Court of Muskingum County, Ohio, under Case Number 20101076,

indicating that no Ohio estate tax return is required to be filed. Therefore, defendant State of Ohio, Estate Tax Division has no lien or interest in the property to be foreclosed.


ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

APPROVED:

CARTER M. STEWART
United States Attorney

s/Bethany J. Hamilton
BETHANY J. HAMILTON (0075139)
Assistant United States Attorney
Attorney for Plaintiff
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215
Telephone: (614) 469-5715
Facsimile: (614) 469-5240
E-mail: bethany.hamilton@usdoj.gov

MICHAEL DeWINE
Attorney General of Ohio

s/Lucas Ward (per written approval of 4/3/2012)
LUCAS WARD (0076654)
Assistant Attorney General
Attorney for Defendant Ohio Department
Of Taxation, Estate Tax Unit
Collections Enforcement Section
150 East Gay Street, 21st Floor
Columbus, Ohio 43215-3130
Telephone: (614) 466-8671
Facsimile: (614) 752-9070
E-mail: lucas.ward@ohioattorneygeneral.gov

D. MICHAEL HADDOX
Prosecuting Attorney

s/Ronald G. LaAsmar (per telephone approval of 4/10/12)
RONALD G. LaASMAR (0004906)
Assistant Prosecuting Attorney
Attorney for Defendant Treasurer of Muskingum
County, Ohio
27 North Fifth Street
Zanesville, Ohio 43701
Telephone: (740) 455-7123
Facsimile: (740) 455-7141